Minnesota Center for Environmental Advocacy

The legal and scientific voice protecting and defending Minnesota's environment

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William Grant
Deputy Commissioner
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VIA ELECTRONIC MAIL

RE: Supplemental Comments Following October 11, 2012 Distributed Generation Workshop

Dear Deputy Commissioner Grant:

Minnesota Center for Environmental Advocacy (MCEA) appreciates the Division of Energy's ("DER") ongoing leadership in the distributed generation ("DG") stakeholder process, as well as its recognition that Minnesota's DG laws and policies are out-of-date. We particularly support your call for increased focus on near-term actions as a means to move the process forward. The dialogue that results from stakeholder consideration of specific policy proposals will more rapidly identify areas of common ground and disagreement than will general policy discussions. Given the increasing financial and safety impacts of climate change and the growing frustration of Minnesotans over their inability to contribute to our energy economy, MCEA believes that rapid improvement in DG regulation is needed now more than ever.

In light of your call for specificity, MCEA offers the following short list of policy proposals for rapid development.

1) **Raise the State's antiquated 40 kW Capacity Cap** – There is no longer any practical or technical need for the state's 40 kW capacity cap for net metering. Its primary effect is to prevent larger non-residential customers from installing distributed generation. Instead, customers should be allowed to install nominal DG capacity up to 110% of customer load. To be clear, raising the cap would not itself permit large DG customers to install such capacity. Instead, it would merely allow all customers <u>to consider</u> net-metered DG as a possibility. Whether or not any particular DG proposal is constructed would depend on appropriate state policies regarding substantive financial and technical matters

intended to protect the interests of utilities, ratepayers and customers. Decisions on the merits of individual DG proposals should not be arbitrarily limited by a capacity cap, but should depend on their unique substantive merits.

2) **Prohibit Fees Not Specifically Allowed by Law** – The State should have clear class-specific statewide rules that prohibit fees not expressly allowed by law. Otherwise, customers face uncertainty about costs, which will discourage DG. There is no defense for regulatory ambiguity. For the sake of economic development, the State should strive to make its DG fee rules as clear as possible for different customer classes regardless of where they are located in the state. Fees charged to small DG generators are generally not appropriate, but any fees ultimately approved by the State should be proven necessary to prevent harm to ratepayers, kept to a minimum, and take full account of the benefits provided to ratepayers by DG and not just utility costs.

3) **Clarify Third-Party Ownership Rules** – The State should clarify and make uniform the rights and responsibilities of third-party ownership of DG, so that regulatory ambiguity alone does not discourage economic development.

4) **Meter Aggregation** -- Minnesota should allow a single customer with load across several contiguous or nearby properties to aggregate its load when determining the appropriate size of a possible DG facility, regardless of current meter location. This change will simplify permit processing and ongoing utility administration, as well as allow customers to take advantage of economies of scale. The definition of customer load should be based on the practicality of combining loads and not on the location of meters, because current meter location may be based on historical administrative decisions and other factors that are unrelated to whether it is appropriate to aggregate a customer's load.

5) **Renewable Energy Credit (REC) Ownership** – REC ownership is a valuable property right that should be clearly defined, both with regard to ownership and use. The clearest possible rule is one that assigns ownership to the DG owner, because the owner is responsible for operation of its generator and therefore REC creation. Clarifying that RECs are owned by the DG owner would not mean that utilities could not come to own their customers' RECs. Instead such rule would force careful consideration of the terms of REC transfers, whether through sale or as an incentive program condition. Further, such rule would clarify that any residual property rights following termination of contractual or regulatory obligations should run with the generator and not the utility. Otherwise, title to REC property rights may become clouded, especially if the RECs are subject to multiple transfers.

6) **Revised Interconnection Standards** – Now that the State has almost a decade of experience with its current DG interconnection rules, it should reconsider the rules' costs and benefits. Among other things, the State should reevaluate its external disconnect switch and insurance requirements for small residential and commercial DG.

MCEA is prepared to provide specific policy instruments on any of these matters for stakeholder consideration.

Again, we appreciate DER's efforts as well as the efforts of all stakeholders, and we look forward to productive dialogue about specific proposals.

Sincerely,

/s/ Beth Goodpaster

Clean Energy Program Director

/s/ Paul Blackburn

Of Counsel to MCEA